



# California Regional Water Quality Control Board Los Angeles Region



Linda S. Adams  
Agency Secretary

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

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Governor

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Mr. Bert Rapp  
City of Fillmore  
250 Central Avenue  
Fillmore, CA 93015

## **WATER QUALITY CERTIFICATION FOR PROPOSED SESPE CREEK LEVEE AND BIKE PATH PROJECT (Corps' Project No. 2006-00723-AJS), SESPE CREEK, TRIBUTARY TO SANTA CLARA RIVER, CITY OF FILLMORE, VENTURA COUNTY (File No. 06-024)**

Dear Mr. Rapp:

Regional Board staff has reviewed your request on behalf of the City of Fillmore (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on August 8, 2006.

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Valerie Carrillo, Lead, Section 401 Program, at (213) 576-6759.

[Original signed by] \_\_\_\_\_  
Jonathan S. Bishop  
Executive Officer

January 4, 2007  
Date

**California Environmental Protection Agency**



*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

## DISTRIBUTION LIST

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U.S. Fish and Wildlife Service  
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Ventura, CA 93003

## ATTACHMENT A

### Project Information File No. 06-024

1. Applicant: City of Fillmore  
250 Central Avenue  
Fillmore, CA 93015  
  
Phone: (805) 524-1500 ext. 231 Fax: (805) 524-5707
  
2. Applicant's Agent: Mr. Matt Ingamells  
Padre Associates, Inc.  
1861 Knoll Drive  
Ventura, CA 93003  
  
Phone: (805) 644-2220 Fax: (805) 644-2050
  
3. Project Name: Sespe Creek Levee and Bike Path
  
4. Project Location: Fillmore, Ventura County  
Longitude: 118° 56' 141"; Latitude: 34° 23' 786"  
Longitude: 118° 56' 525"; Latitude: 34° 23' 402"
  
5. Type of Project: Levee and Bike Path
  
6. Project Description: *Purpose:*  
The purpose of the proposed project is to provide flooding protection for the site of the proposed Water Recycling Plant and to extend the existing bike path along the levee north of SR 126.  
  
*Description:*  
The project consists of flood control improvements to protect the site of the City's proposed Water Recycling Plant, and the extension of the existing bike path along the levee north of SR 126.  
  
The flood control levee will be constructed near the eastern bank of the Sespe Creek from the SR 126 right-of-way toward the south for approximately 1,400 linear feet. At its north terminus, the levee would be located near the low-flow channel, but would progressively turn away from the channel as the levee heads south and Sespe Creek heads southwest. Most of the levee would locate

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in an agricultural field, approximately 750 feet to the east of the channel at the levee's southern terminus. The levee would measure approximately 110 feet wide and 12 feet high.

The levee would be composed of a soil-cement core (SCC), which would be buried beneath earthen fill and capped with an access road. The SCC would be constructed as an 8-foot thick layer at a slope of 1:1 (vertical to horizontal) to a depth of 10 feet below the Ventura County Watershed Protection District redline elevation. An excavation with 1:1 slopes would be completed to provide for the construction of the SCC, and would therefore require the placement of groundwater dewatering wells. Upon completion of the SCC, both sides of the levee will be backfilled. The fill on the west (Sespe Creek) side of the levee would be composed of miscellaneous (non-engineered) native material and would tie into the existing grade at a slope of 1:5. The eastern levee embankment would be composed of engineered fill (compacted to 90%) and be sloped at a ratio of 1:2.

Originally, six cabled rock groins were proposed to be installed and buried below the existing streambed elevation to protect the levee from scour. The project has been revised and the groins have been removed from the project due to economic reasons.

An access road will be constructed on the top of the proposed levee to be used as a shared access road/bike path. The City proposes to construct a total of approximately 3,430 linear feet of access road/bike path. The bike path extension will include an under crossing of the SR 125 bridge. The bike path has been redesigned according to recommendations from the California Department of Fish and Game. The alignment would be slightly modified where it would emerge from the south side of the SR 126 bridge. The bike path would be 10 feet wide and surfaced with asphalt, except portions near the SR 126 bridge which would be surfaced with concrete. The access road would be 12 feet wide. Upstream of the SR 126 bridge, approximately 570 feet of soil cement would be placed along the base of the existing concreted rock rip-rap slope (levee) to form a pad for the bike path.

7. Federal  
Agency/Permit:

U.S. Army Corps of Engineers  
NWP No. 14 (Permit No. 2006-00723-AJS)

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8. Other Required Regulatory Approvals: California Department of Fish and Game Streambed Alteration Agreement
9. California Environmental Quality Act Compliance: The City Council of the City of Fillmore approved the project's Subsequent Final Environmental Impact Report (EIR No, 91-0675, SCH No. 92041046) on May 24, 2005.
10. Receiving Water: Sespe Creek tributary to Santa Clara River (Hydrologic Unit No. 403.31)
11. Designated Beneficial Uses: MUN\*, IND, PROC, AGR, GWR, FRSH, REC-1, REC-2, WARM, WILD, RARE, MIGR, WET
- \*Conditional beneficial use
12. Impacted Waters of the United States: Non-wetland waters (unvegetated streambed): 0.23 temporary and 0.31 permanent acres
13. Dredge Volume: None
14. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has not identified any related projects carried out in the last 5 years or planned for implementation in the next 5 years.
15. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Final design and construction should restore stream channels, ephemeral drainage and washes to their original contours upon completion of construction, where feasible, with the exclusion of areas of permanent impacts.
  - During grading and construction, the Project Biologist will conduct monitoring in and adjacent to sensitive habitats

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including monitoring of the installation of protective devices (silt fencing, sandbags, fencing, etc.), construction of access roads, vegetation removal and other associated construction activities, as deemed appropriate by the Project Biologist. Biological monitoring will be conducted to document adherence to habitat avoidance and minimization measures addressed in the project mitigation measures in the EIR and as listed in the USFWS, CDFD, and ACOE permits/agreements.

- To the extent practicable, construction activities will be planned to take place during the dry season to protect fish, amphibian and reptile species. If work must occur during the wet season, construction activities should be scheduled to take place when the work areas are dry. If the ground is wet or saturated, cross-country vehicle travel (within native habitats) and other ground-disturbing activities, such as grading, will be avoided unless the activities are approved by a qualified biologist.
- Driving to work sites will be limited to establish access routes whenever possible and should minimize cross-country travel. If cross-country driving is necessary, access routes should be flagged in the field to avoid impacts to sensitive habitats and should be approved by a qualified biologist prior to their use. Cross-country driving will be limited to designated routes, kept to the minimum number of trips necessary and avoided when soils are wet or saturated, A qualified biologist will flag appropriate exclusion areas adjacent to sensitive habitats near work areas or access routes.
- All fueling and vehicle maintenance areas will be located away from Santa Clara River and Sespe Creek (100 feet from the edge of the creek and/or river) and pools (at least 330 feet from edge of the pond), and away from any other sensitive biologist resource exclusion areas marked by a qualified biologist.
- The construction contractor will prepare a spill response plan prior to the start of work at the project site. Each work crew will be equipped with a spill clean-up kit. Spills of petrochemical fluids (gasoline, diesel, coolant, etc.) from equipment and vehicles in or near the Santa Clara River and Sespe Creek will be cleaned up immediately, consistent with the project spill response plan and applicable federal, state and local regulations.

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- If banks are disturbed and there is potential for erosion into the Santa Clara River, the contractor will install temporary erosion control structures to minimize erosion and sediment deposition in the stream.
- When construction activities in the Santa Clara River are completed, all equipment, vehicles, tools and materials will be removed from the construction area.

16. Proposed  
Compensatory  
Mitigation:

The Applicant has proposed to restore areas affected by the proposed project. As discussed in the EIR, the City will consider restoration which may include limited revegetation of the proposed levee.

17. Required  
Compensatory  
Mitigation:

The Regional Board will require compensatory mitigation for all impacts associated with the proposed project at a ratio of **2:1** for permanent impacts and **1:1** for temporary impacts. Therefore, a total of **0.85 acres** of mitigation will be required, **0.23 acres** for temporary impacts and **0.62 acres** for permanent impacts. Restoration may consist of revegetation with native species in the project vicinity. If enough area is not available for on-site mitigation, in-lieu funding may be provided to a local conservancy for restoration activities within waters of the U.S.

*See Attachment B Conditions of Certifications, Additional Conditions for modifications and additions to the above proposed compensatory mitigation.*

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### Conditions of Certification File No. 06-024

#### STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

#### ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Game's (CDFG) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this certification, the CDFG's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and polices set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 16, are incorporated as additional conditions herein.

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### **Conditions of Certification File No. 06-024**

5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times so they are familiar with all conditions set forth.
6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste and/or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact Rodney Nelson, Land Disposal Unit, at (213) 620-6119 for further information.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.

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12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. Application of pesticides must be supervised by a certified applicator and be in conformance with manufacturer's specifications for use. Compounds used must be appropriate to the target species and habitat. All pesticides directed toward aquatic species must be approved by the Regional Board. Pesticide utilization shall be in accordance with State Water Resources Control Board Water Quality Order Nos. 2004-0008-DWQ and 2004-0009-DWQ.
14. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.
15. The grading, stabilization and re-vegetation will be phased to limit the exposed or working face such that the graded area can be stabilized within 24 hours after the first prediction of rain during the 5-day forecast or within 24 hours after final grading of the phased area.
16. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during all vegetation clearing activities. The biologist shall be available on site during construction activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.
17. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
18. All project/maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.

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19. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for the following shall be implemented:
- pH
  - temperature
  - dissolved oxygen
  - turbidity
  - total suspended solids(TSS)
  - Downstream TSS shall be maintained at ambient levels
  - Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%.

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be monitored for on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis, thereafter, until the in-stream work is complete.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

20. The Applicant shall restore all areas (**0.23 acres**) of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
21. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed permanent impacts to **0.31 acres** of vegetation within waters of the United States by creating

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- or restoring riparian habitat/Federal jurisdictional wetland habitat at a minimum **2:1** area replacement ratio (**0.62 acres**). As an alternative, the Applicant may provide adequate funding to a third party organization for the creation or restoration of a total of **0.85 acres** of riparian habitat within waters of the United States/Federal jurisdictional wetlands. The mitigation site shall be located within the Santa Clara Watershed unless otherwise approved by this Regional Board. The boundary of the mitigation site shall be clearly identified on a map of suitable quality and shall be defined by latitude and longitude. This information shall be submitted to this Regional Board for approval prior to any disturbance within waters of the United States and shall include copies of any agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.
22. All open space and mitigation areas shall be placed within a conservation easement to ensure preservation in perpetuity. Documentation of proper easement placement shall be submitted to the Regional Board within one year.
23. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** by **January 1<sup>st</sup> /May 1<sup>st</sup>** of each year for a minimum period of **five (5) years** after planting or until mitigation success has been achieved. The report shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. This report shall include as a minimum, the following documentation:
- (a) Color photo documentation of the pre- and post-project and mitigation site conditions;
  - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
  - (c) The overall status of project including a detailed schedule of work;
  - (d) Copies of all permits revised as required in Additional Condition 1;
  - (e) Water quality monitoring results (as required) compiled in an easy to interpret format;
  - (f) A certified Statement of “no net loss” of wetlands associated with this project;
  - (g) Discussion of any monitoring activities and exotic plant control efforts; and
  - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
24. Prior to any subsequent maintenance activities within the subject drainages/basin, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall

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**Conditions of Certification  
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submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the drainage's/basin's existing condition/capacity; (c) the area of proposed temporary impact within waters of the State; (c) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (d) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.

- 25. All applications, reports, or information submitted to the Regional Board shall be signed:
  - (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
  - (b) For a partnership, by a general partner.
  - (c) For a sole proprietorship, by the proprietor.
  - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.

- 26. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

“I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Executed on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

\_\_\_\_\_ (Signature)  
\_\_\_\_\_ (Title)”

- 27. All communications regarding this project and submitted to this Regional Board shall identify the Project File **06-024**. Submittals shall be sent to the attention of the 401 Certification Unit.

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28. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
29. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Ventura County and co-permittees under NPDES No. CAS004002 and Waste Discharge Requirements Order No. 00-108. This includes the Stormwater Quality Urban Impact Mitigation Plan (SQUIMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
30. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
31. A copy of this Certification shall be kept at the project site during any period while project activities are being conducted, and shall be available upon request to any staff from this Regional Board.
32. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
33. *Enforcement:*
  - (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of

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### Conditions of Certification File No. 06-024

section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.

- (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
  - (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.
34. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.